

Beeman, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FAIRSTAR HEAVY TRANSPORT NV,

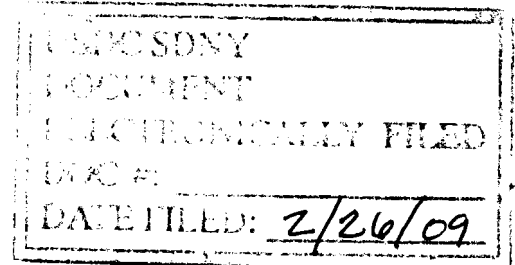
Plaintiff,

- against -

C&M GROUP LIMITED and C&M MARINE
SERVICES USA, INC.,

Defendants.
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08 Civ. 6889 (RMB)



ORDER RELEASING ATTACHED FUNDS

WHEREAS Plaintiff Fairstar Heavy Transport NV, (“Plaintiff”) filed this Rule B maritime attachment action against Defendants C&M GROUP LIMITED and C&M MARINE SERVICES USA INC., (“Defendants”) on or about July 31, 2008 seeking security in respect of Plaintiff’s claims, as set forth in its Verified Complaint, against Defendants; and

WHEREAS Process of Maritime Attachment and Garnishment (“PMAG”) issued in this case authorizing the restraint of up to \$817,502 of Defendants’ property within the District; and

WHEREAS the PMAG was served upon a number of garnishee banks; and

WHEREAS between October 1, 2008 and October 6, 2008 the sum of \$56,496 belonging to the Defendant C&M MARINE SERVICES USA, INC., was restrained at various garnishee banks within the District pursuant to the PMAG (“the Attached Funds”), *i.e.* (1) American Express Bank attached an electronic payment of \$376 on or about October 1, 2008; (2) Bank of America attached an electronic payment of \$28,060 on or about October 1, 2008; and Bank of New York attached an electronic payment of \$28,060 on or about October 6, 2008; and

WHEREAS The Royal Bank of Scotland (“the Bank”) has acquired all right, title and interest of C&M MARINE SERVICES USA, INC., and in the Attached Funds as reflected in the signed agreement by The Bank and C&M MARINE SERVICES USA, INC. attached to this Order as Exhibit One; and

WHEREAS the Bank and C&M MARINE SERVICES USA, INC. have agreed with Plaintiff to settle this lawsuit in consideration of a payment to Plaintiff in the amount of \$28,248, *i.e.* 50% of the Attached Funds, as reflected in Exhibit One; and

WHEREAS the agreement attached as Exhibit One, which is executed by Mr. Ronald Charles McLean of the Bank, Mr. Patrick Granger of C&M Marine Services (USA) Inc., and Mr. Charles E. Murphy as attorney-in-fact of Plaintiff, provides that the settlement of \$28,248 shall be funded from a portion of the Attached Funds and released to Plaintiff; and

WHEREAS the agreement attached as Exhibit One provides that the excess of the Attached Funds, *i.e.* the \$28,248 not used to fund the settlement, shall be released to the Bank’s attorneys Boyar & Miller, P.C. to their bank account in Houston, Texas as follows:

Compass Bank
24 Greenway Plaza
PO Box 4444
Houston, Texas 77210
ABA #: 113010547

Credit to: Boyar & Miller, P.C.
IOLTA Account
Account #: 38339699

IT IS HEREBY ORDERED that \$28,248 of the Attached Funds, which represent the settlement funds to be paid to Plaintiff, and \$28,248, which represents the remainder of the Attached Funds to be paid to the Bank, shall be released by the garnishee banks and paid pursuant to the joint

written instructions of Plaintiff's counsel, Lennon, Murphy & Lennon, LLC, and by the Bank's counsel, Boyar & Miller, P.C.

~~IT IS FURTHER ORDERED~~ that no further restraint of the Attached Funds being released hereunder by any garnishee shall be permitted under any other Ex Parte Order(s) and Process of Maritime Attachment and Garnishment(s) issued pursuant to Supplemental Rule B by this Court to any other claimant against the Plaintiff or Defendants.

RMB

Clerk to close this case.

Dated: February 26 2009

SO ORDERED

RMB

Hon. Richard M. Berman, U.S.D.J.



EXHIBIT 1

The Royal Bank of Scotland

February 20, 2009

Charles E. Murphy
Lennon, Murphy & Lennon, LLC
The GreyBar Building
420 Lexington Avenue, Suite 300
New York, NY 10170

Re: Seized Funds related to Fairstar NV – Ice Maiden

Dear Mr. Murphy:

This letter is to inform you that The Royal Bank of Scotland (the "Bank") has acquired all right, title and interest of C&M Marine Services (USA) Inc. (the "Company"), in and to that certain \$56,496 (the "Funds") that was seized at the request of Fairstar Heavy Transport NV under Rule B of the Supplemental Rules of Admiralty and Maritime Claims. In accordance with the agreement reached between Fairstar and the Bank, please wire \$28,248, constituting one half of the Funds, to the Bank's US counsel, Boyar & Miller, c/o Gary W. Miller, whose wiring instructions are set forth below:

Compass Bank
24 Greenway Plaza
PO Box 4444
Houston, Texas 77210
ABA #: 113010547

Credit to: Boyar & Miller, P.C.
IOLTA Account
Account #: 38339699

Please call Lynne Pfile at (832) 615-4264 or email her at lpfile@boyarmiller.com to notify her of the incoming wire.


The Bank releases to Fairstar any interest in the Funds other than the \$28,248 to be wired to the Bank, as described herein. Further, a representative of the Company has joined in the execution of this letter agreement, and hereby releases to Fairstar any interest in the Funds other than the \$28,248 to be wired to the Bank. By your signature below, you hereby release any interest in the Funds held by Fairstar that are to be wired to the Bank, and agree on behalf of Fairstar that Fairstar will not seek to seize any funds that are intended for Global Maritime Solutions, LLC, on account of good or services provided to the Company.

Charles E. Murphy
February 20 2009
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Should you have any questions, please do not hesitate to contact me or Gary W. Miller.

Very truly yours,

THE ROYAL BANK OF SCOTLAND

By: 
Name: RONALD CHARLES McLEAN
Title: CORPORATE MANAGER

Joinder of C&M Marine Services (USA) Inc.

The undersigned hereby agrees, effective as of the date hereof, with all the terms and conditions of the foregoing letter that are applicable to C&M Marine Services (USA) Inc.

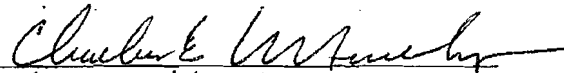
C&M MARINE SERVICES (USA) INC.

By: _____
Patrick Granger, Authorized Representative

Joinder of Fairstar Heavy Transport NV

The undersigned hereby agrees, effective as of the date hereof, with all the terms and conditions of the foregoing letter that are applicable to Fairstar Heavy Transport NV.

FAIRSTAR HEAVY TRANSPORT NV

By: 
Name: Charles Murphy
Title: Attorney-in-fact

Charles E. Murphy
February 20, 2009
Page 2

Should you have any questions, please do not hesitate to contact me or Gary W. Miller.

Very truly yours,

THE ROYAL BANK OF SCOTLAND

By: _____
Name: _____
Title: _____

Joinder of C&M Marine Services (USA) Inc.

The undersigned hereby agrees, effective as of the date hereof, with all the terms and conditions of the foregoing letter that are applicable to C&M Marine Services (USA) Inc.

C&M MARINE SERVICES (USA) INC.

By: 
Patrick Granger, Authorized Representative

Joinder of Fairstar Heavy Transport NV

The undersigned hereby agrees, effective as of the date hereof, with all the terms and conditions of the foregoing letter that are applicable to Fairstar Heavy Transport NV.

FAIRSTAR HEAVY TRANSPORT NV

By: _____
Name: _____
Title: _____